

Looking Out For Your Legal Rights®

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Did you lose your eviction hearing? If you need more time to move, the court may allow you to stay in your apartment if you tell the judge what you need and why you need it. *Page 1*

Doing legal research to find the answer to your legal problem can be easy or hard or somewhere in between. This article will tell you where to begin. *Page 4*

Were you arrested? Were you served with a civil forfeiture complaint? Know your rights in civil forfeiture proceedings. *Page 7*

*Cuáles Son Sus
Derechos Legales*
La versión en
español la encontrará
al reverso.

HOUSING LAW: How to Put Off Your Eviction If You Need More Time

DID YOU LOSE your eviction hearing? Do you need more time to find a new apartment? Do other circumstances make it necessary for you to ask for more time to move? The court might allow you to stay in your apartment if you tell the judge what you need and why you need it. The judge has complete discretion about deciding whether or not to approve your request for more time, so you should explain in detail how much time you need and why. If you do not owe rent, the judge will be more likely to approve your request for more time.

If you do not owe rent, the judge will be more likely to approve your request for more time.

You should not stop preparing to move. The judge might deny your request on the spot, so you should be prepared for the worst. Make arrangements to store your belongings and find another place to stay temporarily.

How do I request more time?

To request more time in your apartment or house for any reason, you need to go to the clerk's office in

Continued on page 2

continued from page 1

the Special Civil Part of the courthouse where your eviction hearing was held. Bring a copy of the warrant for removal. Tell them you want to apply to have your eviction “stayed” (or stopped). They will ask you to complete a form and, on the form, you will be able to list the reasons you need the stay.

Getting a Return Date

After you file the papers, the court will make a decision about what to do. Sometimes a decision is made on the day you file. Other times, you will get a “return date” (or hearing date) from the court telling you when the court will hear (consider) your application—when you and the landlord will return and appear before the judge. The judge will normally review your papers and sign an



After you apply to have your eviction stayed, the judge will normally review your papers and sign an order that gives you a return date.

order that gives you a return date. The court will also tell you when and how you must give notice to the landlord.

What happens on the return date?

On the return date, you and the landlord will both appear. You will explain why you believe the relief that you are requesting should be granted. The landlord will give his/her reasons why the relief that you are requesting should be denied.

How much time should I request?

There are three types of stays you can request. With an *order for orderly removal*, you may get up to seven additional days in your apartment. With a *hardship stay*, you may get up to six months. And if the judge agrees to *vacate the judgment*, you will be able to stay indefinitely.

Looking Out For Your Legal Rights®

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Editor, *Looking Out*
Legal Services of New Jersey
P.O. Box 1357
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publications@lsnj.org

This newsletter is for general information only. If you have a legal problem, you should see a lawyer.

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Order for orderly removal. A judge might approve your request for an order for orderly removal if you agree to move but just need a bit more time to do so. In most cases, a judge will not grant you more than seven additional days in your apartment or house if you owe back rent and are unable to make full payment.

Requesting a hardship stay. If seven days is not enough time for you to move, and being forced to do so immediately would pose a great hardship to you, you can request a hardship stay. A hardship stay would give you up to an additional six months. If you owe money to your landlord, your request for a hardship stay will most likely be denied. If you have paid all past due amounts, or if your eviction was based on something other than nonpayment of rent, you will have better luck getting a hardship stay. As with the order for orderly removal, you will need to provide an explanation to the court. Examples of hardship might be:

- You are sick.
- You are disabled.
- You are elderly.
- You have a new place but cannot move in right away.


Requesting the judgment be vacated. If you want the court to vacate (throw out) the judgment against you, you will need to explain why requiring you to leave your apartment is not legally justified. Examples of legal reasons for not leaving your apartment might be:

- The landlord did not give you any notice of the problem before filing a complaint.
- You never received a summons and complaint from your landlord.
- You offered to pay all the money that you owed to your landlord on the date of the hearing, but he/she refused to accept it.
- You did not appear in court because your landlord told you not to go to court.
- You did not appear in court because you were sick.
- You have new proof (you cannot resubmit evidence that has already been considered) showing that you should have won your eviction case.

If you are successful in having the judgment vacated, it will be as if you were never evicted.

Note: Again, be aware that you may not win your application. For that reason, you should not stop preparing to move. Make arrangements to store your belongings and find another place to stay temporarily. It is always best to be prepared for the worst, just in case you are unsuccessful in your application to the court.

For More Information

See the housing section of our website, www.lsnjlaw.org, for more information about your rights and responsibilities as a tenant. 

Doing Legal Research

DOING LEGAL RESEARCH to find the answer to your legal problem can be easy or hard or somewhere in between. There is no way to tell until you start doing the research, so take a deep breath and dive in.

Start by turning your legal problem into a question. Use your own words. Here are some examples:

- Can my landlord kick me out because I make too much noise?
- Can I get unemployment if I get fired?

Then try to find the words the law uses for your problem. Looking at our website, www.lsnjlaw.org, may help.

Finally, pick a type of law and look for the answer to your legal problem. To make sure you are finding everything, it is probably a good idea to look at each type of law.

The answer will be a statement about the law from **New Jersey** that applies to the who, what, when, where and why [lawyers call these the facts] of your legal problem. This statement can be found in a statute, a case, a regulation, or a mu-



Using books to do legal research can sometimes be easier and faster than using the Internet, especially if you are looking at statutes and regulations.

nicipal ordinance. The answer may be in a yes/no form or may be a list of factors.

The reason New Jersey is in bold is to stress that you should try to find the law from New Jersey, not from another state. Sometimes you may need to find federal law instead of state law. The best way to figure this out is to check a secondary source by the topic of your question.

Why use a library (and why use books)?

Thanks to the web, you do not need to go to a library or use books to do legal research. But there are still good reasons for going to a library. And there are still good reasons for using books.

Many libraries have computers with web access and printers that are available to the public. Libraries also have reference librarians. In law libraries, the librarian frequently has a law degree. Librarians cannot tell you what the law means or how the law applies to your legal problem. But reference librarians can and will help you find sources that will tell you what the law means or help you decide how the law applies to your legal problem.

Libraries also have books. Some books give the big picture for a legal topic. Looking at a book can be helpful when you don't know anything about a legal topic and don't know where to start to do legal research.

Using books to do legal research can sometimes be easier and faster than using the web, especially if you are looking at statutes and regulations. You can use the table of contents or the index of a book, arranged in alphabetical order, to browse until you find a section that

might have something to do with your legal problem. Find the place where the section is located and then flip to the right place in the book.

Finally, some books about the law are written by lawyers who are experts in that legal topic. This type of book is called a *treatise*. Treatises will frequently say what the law is/means and will list cases, statutes, and regulations to back up what they say.

Finding the Right Library

Libraries collect books about the law. Some collect more books than others. If you need a library, check your local public library first. You may find exactly what you need. Some colleges and universities have books about the law, and some county courthouses have law libraries.

In New Jersey, there are three large law libraries that are open to the public:

- The State Library is located at:
185 West State Street
Trenton, NJ 08625-0520
Library phone: (609) 278-2640 x102
www.njstatelib.org
- The Rutgers School of Law–
Newark Law Library is located at:
123 Washington Street
Newark, NJ 07102
Library phone: (973) 353-5675
<https://law.rutgers.edu/>
- The Rutgers School of Law–
Camden Law Library is located at:
217 North Fifth Street
Camden, NJ 08102
Library phone: (856) 225-6172
<https://law.rutgers.edu/>

When you go to a law library, ask where the reference desk is. Once you get to the reference desk, ask if they have

a map to tell you where the different books are kept. You should also ask if they have guides or pathfinders to help you find information on different topics.

Using the Web For Legal Research

There are many good websites with accurate legal information. You will be able to find cases, statutes, and regulations on the web.

Just as books have their good points, the web has its advantages over using books. When you search electronically on the Internet, the computer finds all of the cases or statutes at once instead of having to go through the books one at a time.

Another advantage of using the web is that the law may change but the book may not. Updating law on the web can happen more quickly.

Doing legal research on the Internet has some disadvantages that have to do with searching the Internet for information on any topic. Remember when you put words in a search engine, the search engine has its own way of using the words. Make sure you know what that way is (by reading the help section). Remember that no matter how good your search is, the Internet is so vast that you will get many hits, some of them duplicates and some no good at all. Be prepared to be patient and always look past the first page of results.

Doing legal research on the Internet has a disadvantage that has to do with publishing on the Internet. Just as there are many good websites with accurate legal information, there are bad websites with incorrect legal information. There are also websites created by attorneys to market their services; these websites may be biased. Finally, there are websites that

Please see our website, www.lsnjlaw.org, for a list of good websites for finding general information on a legal problem and New Jersey and federal law.

are created and never updated again. Try to see if you can find the same answer on more than one website before you use the information. (This suggestion is useful when you are researching in books, too.)

Please see our website, www.lsnjlaw.org, for a list of good websites for finding general information on a legal problem and New Jersey and federal law.

How to Know if the Law is Still Good Law

Laws change. The correct answer to a legal problem may not be the right answer today. For example, a court can change its decision in a case by overruling the decision. A legislature can unpass/repeal a statute. A court can decide that a statute is “unconstitutional” (does not follow a statute). For that reason, it is *very important* to check to see if the legal information you found is still “good law.”

One advantage of using books (instead of the web), especially when you are looking at statutes, is that books have pocket parts/supplements to update them. Look in the pocket part/supplement to see if the citation to your legal information is listed and discussed.

You should also check citations to any cases or statutes you find in a citation

checker. A citation checker will list each case or statute that has discussed your case or statute and explain if the case or statute was discussed in a positive way (think green light) or discussed negatively (think red light). Lawyers call this “shepardizing” because Shepards is a well-known citation checker.

When to Stop Doing Legal Research

Knowing when you have done enough legal research can be hard. Here are some suggestions to help you decide.

- You should stop doing legal research if you have run out of time because of a court’s deadline. Meeting a court’s deadline is more important than doing perfect legal research because of what could happen if you do not meet the deadline.
- You can stop doing legal research if you find the same legal information, cases, statutes, regulations, and rules over and over again.
- You can stop doing legal research if you have checked the legal information you have found to see if it is good law and it is.

By Rebecca Pressman, Law Librarian &
Chief Knowledge Manager,
Legal Services of New Jersey

Your Rights in Civil Forfeiture Proceedings

WERE YOU arrested? Were you served with a civil forfeiture complaint? This means the State of New Jersey wants to keep some of the property they took during your arrest because they feel it may be contraband.

There are several types of contraband:

- *Prima facie* contraband may include illegal drugs, weapons, stolen property, and other items that are illegal to own or use. The State does not have to file a forfeiture complaint to confiscate *prima facie* contraband.
- *Derivative* contraband may include items not necessarily illegal, but items the State may believe are connected to unlawful activity. This may be cash, a car, a truck, or other belongings that were seized at the time of your arrest.

Forfeiture Complaint

If your property is seized and declared derivative contraband, the State will serve you with a *forfeiture complaint*. The complaint, which seeks possession of the property, names you as either an owner or someone with interest.

You will need to respond to the complaint by filing an answer within 35 days and sending a copy to the county prosecutor. The NJ Judiciary website has forms you can use to help you answer the complaint.

The State must serve you with the complaint within 90 days of the seizure. If you are not served within 90 days and you experience some type of prejudice or harm caused by the delay, you may ask the court to dismiss the complaint.

Your Hearing

After you answer the complaint, the court will set a trial date. The State has the burden to prove its case. You may present evidence and call witnesses in your defense at that time.

To defend your property from forfeiture, you will need to show that your property was not:

- Used or intended to be used for an unlawful activity;
- An integral part or intended to become part of an illegal activity; or
- Proceeds of an illegal activity.

If you owned seized property and you were unaware of any illegal activity and took no role in it, the State may find you to be an “innocent owner” and your property may not be subject to seizure. Also, the State cannot confiscate property it found as the result of an illegal search.

The State’s Burden

To win the case against you, the State must prove there was an underlying illegal activity. This means that there was a “crime,” not merely a disorderly person’s offense or violation. It must also prove a “direct causal relationship” between the illegal activity and your property.

There must be some evidence tying your property to a specific crime committed or planned. Simply having in your possession money that may likely be used in a drug transaction in the future is not enough. Also, the fact that a vehicle was used in an illegal activity does not necessarily require forfeiture of its contents.

If you owned seized property and you were unaware of any illegal activity and took no role in it, the State may find you to be an “innocent owner” and your property may not be subject to seizure.

The State may hold seized property if it is using the property as evidence in a criminal prosecution.

Even if the State proves a connection between the illegal activity and the property, you may provide evidence that some portion of the money (or property) was intended for legal purposes to prevent that portion from seizure.

As in all civil proceedings, you also have the right to request discovery, file

appropriate motions, and to request a jury trial.

Speak to a Lawyer

Civil forfeiture proceedings are complicated. It is best to speak with a lawyer if civil forfeiture proceedings have been started against you. □

*By Akil S. Roper, Chief Counsel,
Legal Services of New Jersey*

LSNJLAWSM, Legal Services of New Jersey’s Statewide, Toll-Free Legal Hotline

Read more about your legal rights on our website, www.lsnjlaw.org. If you have questions or need legal advice with a civil legal matter, contact LSNJLAWSM, Legal Services of New Jersey’s statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). You may also apply online at <https://lsnjlawhotline.org>. Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. The Hotline provides free legal assistance to low-income New Jersey residents in civil legal issues. If you are not eligible for assistance from Legal Services, the hotline will refer you to other possible resources.



Scan this QR code to apply online.

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Legal Services of New Jersey’s YouTube channel features client stories about legal disputes and how LSNJ has helped, self-help videos in many languages that explain the law and actions you can take, and information on closing the justice gap.

www.youtube.com/user/LegalServicesNJ

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Cuáles Son Sus Derechos Legales

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Hacer una investigación jurídica para resolver un problema puede ser fácil o difícil o algunas veces, algo en la mitad. Este artículo le indicará por dónde empezar.

*Looking Out For
Your Legal Rights:
Flip over for
English edition*

Cómo hacer una investigación jurídica

HACER UNA investigación jurídica para resolver un problema puede ser fácil o difícil o algunas veces, algo en la mitad. No hay forma de saber hasta que se empiece a investigar, así que respire profundo y proceda.

Comience por convertir su problema legal en una pregunta. Use sus propias palabras. Aquí le mostraremos algunos ejemplos:

- ¿Me puede echar el propietario de mi vivienda porque hago demasiado ruido?
- ¿Si me despiden, puedo recibir auxilios por desempleo?

continúa en la página 2

El boletín de educación jurídica para los habitantes de Nueva Jersey

continúa de la página 1

Entonces trate de encontrar las palabras jurídicas para describir sus propias palabras. Hojear en las otras secciones de este sitio web puede serle útil.

Por último, escoja un tipo de derecho y busque la respuesta a su problema. Para asegurarse de que encontrará todo lo que necesita, probablemente sería buena idea revisar todo tipo de derecho.

La respuesta será una declaración acerca de una ley dictada en **Nueva Jersey** que se aplica al quién, qué, cuándo, dónde y por qué [los abogados llaman a esto los hechos] de su problema legal. Esta declaración se puede encontrar en un estatuto, un caso, una regulación o una ordenanza municipal. La respuesta puede ser en forma de un sí o un no, o puede ser una lista de factores.

La razón por la que la palabra Nueva Jersey está en negrilla es porque usted debe tratar de encontrar una ley dictada en Nueva Jersey y no en ningún otro estado. A veces, es posible que usted tenga que encontrar una ley federal y no una estatal. La mejor manera de averiguar esto es investigar una fuente secundaria relacionada con el tema de su pregunta.

¿Por qué utilizar una biblioteca (y por qué utilizar un libro)?

Para hacer una investigación jurídica, gracias a la Internet, usted no tiene que ir a una biblioteca ni tiene que utilizar libros. Pero todavía existen buenas razones para ir a una biblioteca. Al igual que todavía hay buenas razones para utilizar los libros.

¿Cuál es el beneficio de ir a una biblioteca para hacer una investigación jurídica? Muchas bibliotecas tienen computadoras con acceso a la Internet e impresoras, disponibles al público, también tienen bibliotecarios a quien consultar. En una biblioteca jurídica, con frecuencia, el bibliotecario es también graduado en derecho. Los bibliotecarios no le pueden decir lo que significa una ley ni cómo se aplica a su problema, pero estos pueden y le ayudarán a encontrar fuentes de información que le indiquen lo que dicha ley significa o le ayudarán a decidir en qué forma esa ley se aplica a su problema.

A parte de eso, en la biblioteca también encontrará libros y algunos de estos le pueden mostrar una imagen más amplia de un tema legal. Consultar un libro puede serle útil cuando usted no sabe nada acerca de un tema legal específico y no sabe por dónde comenzar a investigar.

Cuáles Son Sus Derechos Legales

Con respecto a *Looking Out*

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Si se muda, envíenos su nueva dirección y una copia de la etiqueta pegada al último ejemplar de *Looking Out*.

Comentarios

Si tiene alguna sugerencia o comentario con respecto a *Looking Out*, nos gustaría oírlo. Envíe toda correspondencia a:

Editor, *Looking Out*
Legal Services of New Jersey
P.O. Box 1357
Edison, NJ 08818-1357
publicaciones@lsnj.org

Este boletín de noticias es sólo una información general. Si tiene un problema jurídico, usted debería ver a un abogado.

Una parte del costo de esta publicación se cubrió con la ayuda proporcionada por el fondo IOLTA del colegio de abogados de Nueva Jersey.

A veces, hacer una investigación por medio de libros puede ser más fácil y más rápida si se hace por la Internet especialmente si está buscando estatutos y regulaciones. Puede utilizar el índice general o el índice de un libro, clasificado por orden alfabético, hojeándolo hasta que encuentre una sección que quizás tenga algo que ver con su problema, ubique el lugar donde se encuentra la sección y entonces vaya directamente al lugar correcto en el libro indicado.

Por último, algunos libros jurídicos son escritos por abogados que son expertos en la materia. Este tipo de libro se conoce como tratado. Un tratado, con frecuencia, le informará lo que es una ley y lo que esta significa y listará casos, estatutos y regulaciones para sustentar lo que plantea.

¿Cómo se busca la biblioteca apropiada?

Las bibliotecas almacenan libros de derecho, algunas tienen más libros que otras. Si está buscando una biblioteca, vaya primero a la biblioteca pública en su localidad. Allí, tal vez pueda encontrar exactamente lo que usted necesita. Algunos colegios y universidades tienen libros sobre temas legales; algunos tribunales de justicia en la cabecera del condado tienen una biblioteca jurídica.

En Nueva Jersey, hay tres bibliotecas jurídicas que están abiertas al público:

- La Biblioteca Estatal está ubicada en el:
185 West State Street
Trenton, NJ 08625-0520
El teléfono de la biblioteca
(609) 278-2640 ext. 102
www.njstatelib.org/
- La Biblioteca Jurídica de la Facultad de Derecho en la Universidad Rutgers–Newark se encuentra en:
123 Washington Street
Newark, NJ 07102
(973) 353-5675
<https://law.rutgers.edu/>

- La Biblioteca Jurídica de la Facultad de Derecho en la Universidad Rutgers–Camden se encuentra en:
217 North Broad Street
Camden, NJ 08102
(856) 225-6172
<https://law.rutgers.edu/>

Cuando vaya a una biblioteca, pregunte dónde está el escritorio de referencias. Una vez que llegue allí, pregunte si tienen un mapa que indique donde se almacenan los diferentes libros. De igual manera, debe preguntar si tienen alguna guía o lista impresa que le ayude a encontrar información sobre diferentes temas.

¿Cómo se utiliza la Web para hacer una investigación jurídica?

Existen muchos sitios Web que contienen información jurídica precisa. Allí, podrá encontrar casos, estatutos y regulaciones.

Al igual que los libros tienen aspectos positivos [vea la discusión anterior], la Web tiene sus ventajas sobre la utilización de libros. Cuando busca en la Internet, el sistema encuentra todos los casos o estatutos juntos, en vez de tener que buscar en los libros uno por uno, de la manera que hacemos normalmente.

Otra ventaja de utilizar la Web es que las leyes pueden cambiar pero un libro no puede; actualizar una ley en la Web puede hacerse más rápido.

Hacer una investigación legal en la Internet tiene algunas desventajas que tienen que ver con la búsqueda de información sobre cualquier tema en la Web. Recuerde cuando usted escribe una palabra en un dispositivo de búsqueda, este tiene su propia forma de utilizar las palabras; asegúrese de que sabe qué forma es esa (lea la sección de ayuda). Recuerde que no importa que tan buena sea su búsqueda, la Internet es tan amplia que encontrará muchos datos, algunos de ellos

Visite nuestro sitio Web, www.lsnjlaw.org/espanol donde encontrará algunos sitios Web útiles que le servirán para buscar información general respecto a un problema legal al igual que las leyes federales y de Nueva Jersey.

serán duplicados y otros serán inservibles. Esté preparado a necesitar mucha paciencia y siempre revise más allá de la primera página de los resultados.

Hacer una investigación en la Internet tiene una desventaja que tiene que ver con la publicación en el Internet. Así como hay muchos sitios Web que son buenos y que contienen información legal exacta, hay otros que son malos y presentan información inexacta. Del mismo modo, hay sitios que han sido creados por abogados para vender sus servicios; estos sitios pueden ser tendenciosos. Por último, hay sitios que son creados y después nunca son actualizados. Trate de ver si puede encontrar la misma respuesta en más de un sitio antes de utilizarla; (esta sugerencia es útil también cuando consulte en un libro).

Visite nuestro sitio Web, www.lsnjlaw.org/espanol donde encontrará algunos sitios Web útiles que le servirán para buscar información general respecto a un problema legal al igual que las leyes federales y de Nueva Jersey.

¿Cómo se sabe si una ley todavía está vigente?

Las leyes cambian. La respuesta correcta a un problema jurídico tal vez no sea válida hoy. Por ejemplo, un juez puede cambiar la decisión que tomó en un caso al revocar su propia decisión. Un organismo legislativo puede reprobado/revocar un estatuto. Un tribunal puede decidir que un estatuto no sigue a otro estatuto (es “inconstitucional”). Por eso, es *mu*y importante verificar si la información que usted encontró está “vigente”.

Una ventaja de utilizar libros (en vez de la Web), especialmente cuando se busca un estatuto, es que los libros tienen bolsillos/suplementos donde se guardan las actualizaciones. Mire en el bolsillo para ver si el suplemento contiene la citación referida en su información legal.

Usted también debe indagar, en un sistema verificador, toda citación de un caso o estatuto que usted encuentre. El sistema verificador listará cada caso o estatuto que haya citado su caso o estatuto y explicará si este ha sido discutido en una manera positiva (piense en una luz verde) o negativa (piense en una luz roja). Los abogados llaman a esto “pasarlos por el Shepards” porque Shepards es un sistema verificador de citaciones muy conocido.

¿Cuándo se deja de hacer una investigación jurídica?

Saber cuándo se ha hecho suficiente investigación puede ser difícil. Aquí hay algunas sugerencias para ayudarle a decidir.

Debe dejar de hacer una investigación si se le ha acabado el tiempo debido a que llegó la fecha límite asignada por el tribunal. Cumplir con la fecha impuesta por el tribunal es más importante que hacer una investigación legal perfecta a causa de lo que podría suceder si usted no respeta el plazo.

Puede parar de hacer la investigación si encuentra la misma información, casos, estatutos, regulaciones y reglas repetidas veces.

Puede parar si ha verificado la información que encontró para ver si aún está vigente y lo está. □

Este artículo fue traducido del inglés por Al Moreno, coordinador del servicio lingüístico en LSNJ.